



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Xavier Leroy  
Serial No. : 10/069,670  
Filed : 22 February 2002  
Title : A METHOD FOR TRANSFORMING AND VERIFYING DOWNLOADED  
PROGRAM FRAGMENTS WITH DATA TYPES RESTRICTIONS AND  
CORRESPONDING SYSTEM

Art Unit : 2145  
Examiner : Jeffrey R. Swearingen

**MAIL STOP PETITIONS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. §1.137(b)**

Pursuant to 37 C.F.R. §1.137(b), Applicant hereby petitions for revival of U.S. Patent Application Serial No. 10/069,670.

The entire delay in filing the substitute specification in response to the Notice of Noncompliant Amendment until the filing of this petition was unintentional. Applicant respectfully submits the following facts in support of this petition:

1. On February 22, 2002, the applicant's attorney of record, Michael L. Kenaga of Piper Rudnick (now DLA Piper Rudnick Gray Cary US LLP), filed the above-referenced patent application with the United States Patent and Trademark Office.
2. On May 16, 2005, the Examiner mailed a first Office Action for the above-referenced patent application. The docketing clerk for DLA Piper Rudnick Gray Cary US LLP received such Office Action on May 24, 2005 (See Exhibit A).

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

Signature

Toni M. Sousa

Typed or Printed Name of Person Signing Certificate

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3. On September 29, 2005, Mr. Kenaga filed a response to the Office Action of May 16, 2005 for the above-referenced application (See Exhibit B). A Petition for Extension of Time, pursuant to 37 C.F.R. § 1.136(a), was filed therewith (See Exhibit C). Documentation of receipt by the United States Patent and Trademark Office is enclosed herewith (See Exhibit D).
4. On October 31, 2005, Mr. Kenaga filed a Supplemental Amendment (See Exhibit E) to correct certain typographical errors in the Amendment filed September 29, 2005, which was submitted in the response to the Office Action mailed May 16, 2005. Documentation of receipt by the United States Patent and Trademark Office is enclosed herewith (See Exhibit F).
5. On January 23, 2006, the Examiner mailed a Notice of Non-Compliant Amendment, pursuant to 37 CFR § 1.121, for failure to include a substitute specification in either the initial amendment or supplemental amendment (See Exhibit G). As evidenced by the Declaration of Olga Melendez (See Exhibit H), the Notice of Non-Compliant Amendment was never received by DLA Piper Rudnick Gray Cary US LLP.
6. On February 10, 2006, Grossman, Tucker, Perreault & Pfleger, PLLC received a copy of a duly executed Revocation of Power of Attorney With New Power of Attorney form (See Exhibit I). Such form assigned prosecution of the above-referenced application to the practitioners of Grossman, Tucker, Perreault & Pfleger, PLLC.
7. On February 16, 2006, the above-referenced application was transferred from DLA Piper Rudnick Gray Cary of Chicago, IL to Grossman, Tucker, Perreault & Pfleger, PLLC of Manchester, NH. A copy of the Request to Transfer File letter is enclosed herewith (See Exhibit J).
8. On February 23, 2006, the prosecution regarding the above-referenced application went abandoned due to a failure to respond to the Notice of Non-Compliant Amendment of January 23, 2006.

9. In April of 2006, Mr. Colandreo left Grossman, Tucker, Perreault & Pfleger, PLLC and joined Holland & Knight LLP. In June of 2006, the above-referenced patent application was transferred to Holland & Knight for continued prosecution by Mr. Colandreo.
10. On August 17, 2006, Mr. Colandreo was notified that the above referenced application had gone abandoned. Upon learning of the abandonment, Mr. Colandreo inspected the file jacket for the subject application and confirmed that such Notice of Non-Compliant Amendment dated January 23, 2006 was not present in the file jacket of the subject application. Mr. Colandreo then submitted a request (See Exhibit K) to the United States Patent and Trademark Office that the Examiner send a copy of the Notice of Non-Compliant Amendment dated January 23, 2006 (See Exhibit G). The Revocation of Power of Attorney with New Power of Attorney form, dated February 9, 2006, was also submitted with Mr. Colandreo's request.
11. On October 23, 2006, Mr. Colandreo received the Declaration of Olga Melendez (Exhibit H). On December 20, 2006, Mr. Colandreo received the docket report (See Exhibit L) from DLA Piper Rudnick Gray Cary of Chicago, IL necessary for filing a Petition for Withdrawal of the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(A).
12. On December 22, 2006, Elizabeth Burkhard of Holland & Knight LLP, on behalf of Mr. Colandreo, filed a Petition for Withdrawal of the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(A) (Exhibit M).
13. On March 20, 2007, the USPTO dismissed the Petition for Withdrawal of the Holding of Abandonment based upon the absence of statements by Mr. Kenaga or Mr. Colandreo and a complete docket report from DLA Piper Rudnick Gray Cary of Chicago, IL, stating that the docket report provided was not sufficient (Exhibit N). The Notice of Dismissal was mailed to Grossman, Tucker, Perreault & Pfleger, PLLC.
14. On April 25, 2007, Mr. Colandreo investigated the status of the petition and learned that the petition had been dismissed. Mr. Colandreo contacted Grossman, Tucker, Perreault & Pfleger, PLLC and requested that they forward the notice of dismissal to him. In order to resubmit the Petition for Withdrawal of the Holding of Abandonment pursuant

to 37 C.F.R. § 1.181(A), Elizabeth Burkhard of Holland & Knight LLP attempted to contact Mr. Kenaga to obtain the statement referenced in the Notice of Dismissal. Elizabeth Burkhard was informed that Mr. Kenaga was no longer employed by DLA Piper Rudnick Gray Cary of Chicago, IL.

15. In light of Mr. Kenaga's departure from DLA Piper Rudnick Gray Cary, it was decided by Mr. Colandreo to prepare and file: the subject Petition for Revival under 37 C.F.R. §1.137(b); and a Response to the Office Action of May 16, 2005, including the substitute specification for which the Notice of Non-Compliant Amendment was issued on January 23, 2006. A copy of the response is included with this petition.

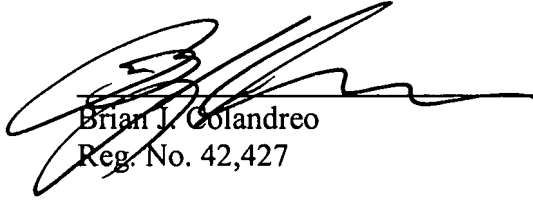
### **CONCLUSION**

It is believed that the above-stated facts and the attached documents support this Petition to Revive pursuant to 37 C.F.R. § 1.137(b). As stated above, **the entire delay in filing the required reply (i.e., the response to the Notice of Non-Compliant Amendment) from the due date for the reply until the filing of this petition was unintentional.**

Please charge the requisite petition fee in the amount of \$1,500 (pursuant to 37 C.F.R. § 1.17(m)) to Deposit Account 50-2324. Additionally, Petitioner conditionally petitions for an extension of time to provide for the possibility that the need for such a petition has been inadvertently overlooked. As provided below, please charge Deposit Account No. 50-2324 for any required fee, or for any deficiency in the enclosed fee. In the event that the Patent Office believes that additional fees are required to be submitted with this petition, please charge any fee(s) or credit overpayments to Deposit Account 50-2324. While the Petitioner believes that this Petition is in order, the Director is invited to telephone applicants' attorney (@ 617-305-2143) to facilitate prosecution of this matter.

Respectfully submitted,

Date: 11 JUNE 2007

  
Brian L. Colandreo  
Reg. No. 42,427

Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116  
Telephone: (617) 573-5850  
Facsimile: (617) 523-6850

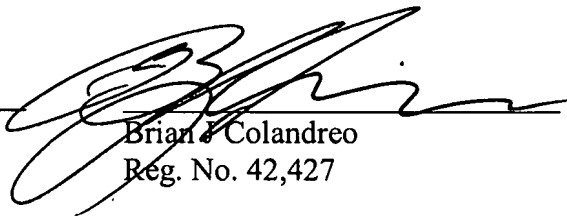
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Brian J. Colandreo  
Reg. No. 42,427

Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116-3889  
Telephone: (617) 305-2143  
Facsimile: (617) 523-6850  
# 4598260\_v1